

Conference Engrossed

State of Arizona  
Senate  
Forty-sixth Legislature  
First Regular Session  
2003

## SENATE JOINT RESOLUTION 1002

### A JOINT RESOLUTION

RATIFYING THE PROPOSAL OF THE REPRESENTATIVES OF THE GOVERNORS OF THE SEVEN STATES OF THE COLORADO RIVER BASIN REGARDING THE ADOPTION OF INTERIM SURPLUS GUIDELINES BY THE SECRETARY OF THE INTERIOR FOR THE COLORADO RIVER SYSTEM AND APPROVING THE REPARATION AND FORBEARANCE AGREEMENT BETWEEN THE STATE OF ARIZONA, ACTING THROUGH THE ARIZONA DEPARTMENT OF WATER RESOURCES, AND THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA REGARDING THE IMPLEMENTATION OF INTERIM SURPLUS GUIDELINES ON THE COLORADO RIVER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1       Whereas, the State of Arizona maintains a sovereign interest in the  
2 waters of the Colorado river, represented by the contract between the United  
3 States of America and the State of Arizona that was executed February 24,  
4 1944 and ratified by the legislature in Laws 1944, Chapter 4; and

5       Whereas, the State of Arizona's rights in the Colorado river were  
6 further confirmed by the decree of the United States Supreme Court in the  
7 matter of Arizona v. California, 376 U.S. 340 (1964), including the right to  
8 divert 2.8 million acre-feet of Colorado river water for consumptive use  
9 within the State of Arizona in normal years, plus forty-six per cent of any  
10 surplus water made available by the secretary of the interior under the terms  
11 of the decree; and

12       Whereas, the secretary of the interior exercises authorities with  
13 respect to the management of the Colorado river dams and reservoirs pursuant  
14 to the Boulder canyon project act of 1928, the Colorado river project storage  
15 act of 1956 and the Colorado river basin project act of 1968, and other acts  
16 amendatory or supplementary thereto; and

17       Whereas, the secretary of the interior has been determined to have the  
18 authority to declare surplus conditions within the Colorado river system and  
19 to make quantities of surplus water available to Colorado river water  
20 contractors under the terms of the decree in Arizona v. California and the  
21 secretary of the interior was proposing to adopt surplus guidelines that did  
22 not adequately consider the interests of Arizona or other states of the  
23 Colorado river basin; and

24       Whereas, the seven states of the Colorado river basin met and drafted  
25 a proposal for surplus guidelines that represented a consensus among the  
26 representatives of the governors of all seven states; and

27       Whereas, the seven basin states' proposal was published by the  
28 secretary of the interior in the Federal Register on August 8, 2000, 65  
29 Federal Register Number 153 at 48531, and the secretary of the interior  
30 expressly acknowledged the importance of working with the representatives of  
31 the governors of the seven basin states in the adoption of interim surplus  
32 guidelines for the Colorado river; and

33       Whereas, the secretary of the interior has now issued a record of  
34 decision under the national environmental policy act of 1969 for the Colorado  
35 river interim surplus guidelines dated January 16, 2001 and published on  
36 January 25, 2001 at 66 Federal Register Number 17 at 7772 adopting, with some  
37 modification, the proposal of the seven basin states; and

38       Whereas, the record of decision adopting the seven basin states'  
39 proposal as the preferred alternative for the administration of surplus water  
40 within the Colorado river system for the interim period beginning January 1,  
41 2002 and ending December 31, 2016 also supports the program adopted by  
42 Colorado river contractors within the State of California to reduce  
43 dependence on Colorado river water supplies over the same period; and

1       Whereas, the record of decision on the Colorado river interim surplus  
2 guidelines acknowledges that the program for administration of surplus waters  
3 proposed by the seven basin states and adopted by the secretary of the  
4 interior is dependent on the State of Arizona foregoing delivery of certain  
5 quantities of surplus water that would otherwise be legally available under  
6 the terms of the 1944 Colorado river contract and the decree in Arizona v.  
7 California; and

8       Whereas, it is in the long term interest of the State of Arizona to  
9 forego delivery of limited quantities of surplus water in years when the  
10 elevation of Lake Mead does not indicate the potential for flood control  
11 releases, even though the State of Arizona would be legally entitled to such  
12 deliveries under the terms of the 1944 Colorado river water contract and the  
13 decree in Arizona v. California; and

14       Whereas, in exchange for Arizona's agreement to forego certain surplus  
15 supplies over the fifteen year period, Metropolitan Water District of  
16 Southern California has agreed to reduce its orders for Colorado river water  
17 to comply with the conservation requirements of the California Colorado river  
18 water reduction plan, and to provide insurance to Arizona that the use of  
19 surplus water within the State of California during the fifteen year period  
20 shall not cause a shortage of Colorado river water within the State of  
21 Arizona either during or after the fifteen year period; and

22       Whereas, Metropolitan Water District of Southern California has agreed  
23 that in the event that a shortage is triggered either during or after the  
24 interim period due to releases made to the State of California pursuant to  
25 the interim surplus guidelines, that Metropolitan Water District of Southern  
26 California shall reduce its use of Colorado river water by up to a total of  
27 1,000,000 acre-feet and direct that water for use within the State of Arizona  
28 to prevent any reduction of Colorado river supplies to the State of Arizona;  
29 and

30       Whereas, the specific terms of the promises made by Metropolitan Water  
31 District of Southern California to the State of Arizona are embodied in an  
32 agreement entitled interim surplus guidelines agreement prepared between the  
33 Arizona department of water resources and the Metropolitan Water District of  
34 Southern California, which will be duly executed in reliance on the adoption  
35 of the California plan and Colorado river interim surplus guidelines; and

36       Whereas, the effectiveness of such agreement is dependent on approval  
37 by the Arizona Legislature by concurrent resolution under Section 45-106,  
38 Arizona Revised Statutes; and

39       Whereas, the State of Arizona must act both through the Arizona  
40 Legislature and the Governor by this joint resolution to temporarily forego  
41 a contractual right accruing to the benefit of the state under the 1944  
42 Colorado river water contract and its sovereign rights accruing under the  
43 decree in Arizona v. California; and

1       Whereas, it is in the best interest of the State of Arizona to enter  
2 into an agreement with the Metropolitan Water District of Southern California  
3 that protects Arizona's interests in the waters of the Colorado river in  
4 surplus, normal and shortage years.

5 Therefore

6 Be it resolved by the Legislature of the State of Arizona:

7       1. That the State of Arizona shall waive its sovereign and contractual  
8 rights to the use of certain quantities of surplus water from the Colorado  
9 river that would otherwise be available for consumptive use within the State  
10 of Arizona under the 1944 Colorado river water contract and the decree in  
11 Arizona v. California for a period ending December 31, 2016 on the following  
12 conditions:

13       (a) That the secretary of the interior faithfully implement the terms  
14 of the seven basin states' proposal as adopted in the record of decision for  
15 the Colorado river interim surplus guidelines, as published on January 25,  
16 2001 at 66 Federal Register Number 17 at 7772; and

17       (b) That Metropolitan Water District of Southern California faithfully  
18 comply with all the terms of the record of decision and the interim surplus  
19 guidelines agreement entered into with the Arizona department of water  
20 resources; and

21       (c) That all Colorado river water that is otherwise available for  
22 release and consumptive use within the State of Arizona, including certain  
23 quantities of surplus water that will be available under the terms of the  
24 interim surplus guidelines, be delivered by the secretary of the interior in  
25 accordance with the rights of the Colorado river water contractors within  
26 Arizona.

27       2. That the contract between the Metropolitan Water District of  
28 Southern California and the Arizona department of water resources entitled  
29 interim surplus guidelines agreement be and hereby is authorized and approved  
30 on the following conditions:

31       (a) That the State of Arizona enforce the contract in accordance with  
32 its terms, unless the contract is supplemented, amended or modified; and

33       (b) That, except as provided in the contract, no supplement, amendment  
34 or modification shall be effective unless ratified and approved by the  
35 Arizona Legislature.

36       3. That this action is being taken in response to unique and  
37 extraordinary circumstances and shall not establish any precedent as to  
38 whether the Arizona Legislature may or may not alter rights to Colorado river  
39 water under contracts between the secretary of the interior and individuals,  
40 irrigation districts, corporations, state departments, agencies, boards,  
41 commissions or political subdivisions of Arizona, without their consent.

42       4. That the contract authorized and approved in this joint resolution  
43 is as follows:

Interim Surplus Guidelines Agreement  
Between the  
State of Arizona and the Metropolitan Water  
District of Southern California

THIS AGREEMENT is entered into this \_\_\_ day of \_\_\_\_\_, 2003,  
by the State of Arizona ("Arizona"), acting through the Arizona  
Department of Water Resources ("Arizona DWR") and the  
Metropolitan Water District of Southern California ("MWD"), a  
California metropolitan water district.

RECITALS

A. The State of Arizona holds a contractual right for the delivery of  
Colorado River water in the amount of 2.8 million acre feet plus one-half of  
any surplus or excess water unapportioned by the Colorado River Compact to  
the extent such water is available for use within Arizona. 1944 Arizona  
Session Laws, Ch. 4 (1<sup>st</sup> Regular Session). The 1944 Colorado River contract  
provides that deliveries of water thereunder shall be made for use within  
Arizona to such individuals, irrigation districts, corporations or political  
subdivisions of Arizona as may contract therefor with the Secretary. The  
Secretary has entered into contracts with various individuals, irrigation  
districts, corporations and political subdivisions within Arizona for the  
delivery of Colorado River water. The Arizona Department of Water Resources  
("Arizona DWR") is an agency of the State of Arizona, created under Arizona  
Revised Statutes, Title 45, Chapter 1, Article 1, and authorized to prosecute  
and defend all rights, claims and privileges of the State of Arizona  
respecting interstate streams. Arizona DWR is specially authorized to enter  
into this contract pursuant to Senate Joint Resolution 1002, 46<sup>th</sup> Legislature,  
First Regular Session.

B. Metropolitan Water District of Southern California ("MWD") is a  
metropolitan water district organized under the California Metropolitan Water  
District Act, codified at § 109-1 of the Appendix to the California Water  
Code, and delivers Colorado River and other water in Los Angeles, Orange,  
Riverside, San Bernardino, San Diego and Ventura Counties, California for  
domestic and irrigation purposes.

C. The United States Secretary of the Interior ("Secretary") is  
responsible for the operation of the reservoirs of the Colorado River system  
and controls the release and delivery of Colorado River water in the Lower  
Division states pursuant to the Decree issued in *Arizona v. California*, 376  
U.S. 340 (1964), the Boulder Canyon Project Act of 1928, the Colorado River  
Basin Project Act of 1968 and other acts amendatory or supplementary thereto.

1 D. MWD, Palo Verde Irrigation District ("PVID"), the Yuma Project  
2 (Reservation Division) ("YPRD"), the Imperial Irrigation District ("IID"),  
3 and the Coachella Valley Water District ("CVWD") collectively hold  
4 California's first three priorities to Colorado River water and are  
5 collectively entitled to the beneficial consumptive use as reasonably  
6 required on specified lands of not to exceed 3,850,000 acre-feet each  
7 year. The fourth and fifth priorities totaling 1,212,000 acre feet per year  
8 are held by MWD. The sixth priority of 300,000 acre-feet per year is held  
9 by IID, CVWD and PVID for beneficial consumptive use as reasonably required  
10 on specified lands. The seventh priority of all remaining water available  
11 for use within California is reserved for agricultural use in the Colorado  
12 River Basin, as defined within California, which includes the lands within  
13 IID, CVWD, YPRD and PVID. MWD and CVWD also have surplus water delivery  
14 contracts with the Secretary of the Interior for the delivery of water that  
15 may be released by the Secretary under Article 11(B)(2) of the Decree in  
16 *Arizona v. California*, 376 U.S. 340 (1964).

17 E. The pending Quantification Settlement Agreement among MWD, IID and  
18 CVWD ("QSA") proposes to settle a variety of long-standing disputes regarding  
19 the priority, use and transfer of Colorado River water within the State of  
20 California and will establish the terms for the further distribution of  
21 Colorado River water among the entities for up to seventy-five (75) years,  
22 based upon the water budgets set forth therein.

23 F. The QSA is conditioned upon the Secretary promulgating and  
24 implementing Interim Surplus Guidelines.

25 G. To assist the California agencies and to provide greater certainty  
26 of water supply for lower basin users, the representatives of the governors  
27 of the Colorado River basin states collectively developed an "Interim  
28 Surplus Guidelines - Working Draft" which was published in the Federal  
29 Register on August 8, 2000 at Volume 65, number 153, pages 48531-48538 and  
30 is attached hereto as Exhibit 1. Certain technical corrections to the Basin  
31 States' Proposal were made and noted in the Federal Register on September 22,  
32 2000 at Volume 65, number 185, page 57371. These corrections are attached  
33 hereto as Exhibit 2 (collectively the "Basin States' Proposal").

34 H. The Basin States' Proposal was adopted, with some modification, in  
35 the Secretary's Record of Decision for Colorado River Interim Surplus  
36 Guidelines ("Interim Surplus Guidelines"), dated January 16, 2001 and  
37 published in the Federal Register at Volume 66, number 17, page 7772-7782  
38 (January 25, 2001). A copy of the Record of Decision is attached hereto as  
39 Exhibit 3.

40 I. The Basin States' Proposal requires that certain commitments be  
41 made by MWD for the benefit of the State of Arizona. The purpose of this  
42 agreement is to implement the commitments between MWD and the State of  
43 Arizona outlined in the Basin States' Proposal and to clarify how MWD and the  
44 State of Arizona intend to facilitate implementation of the Interim Surplus  
45 Guidelines.

1 J. Neither the State of Arizona nor MWD intend to, and under this  
2 agreement do not in any way transfer, assign, encumber, or grant to each  
3 other any ownership interest in or control over each other's water rights.  
4

5 ARTICLE 1  
6 DEFINITIONS  
7

8 1.1 As used in this agreement, the following terms have the  
9 following meanings:

10  
11 1.1.1 af. Acre-foot, a measure of volume.  
12

13 1.1.2 Annual Operating Plan or "AOP". The Annual  
14 Operating Plan for the Colorado River System  
15 Reservoirs transmitted to the Governors of the  
16 Colorado River Basin States each year by the  
17 Secretary in accordance with section 602 of the  
18 Colorado River Basin Project Act, 43 U.S.C. §  
19 1552(b).  
20

21 1.1.3 Arizona Water Banking Authority. The Arizona Water  
22 Banking Authority created under Arizona Revised  
23 Statutes § 45-2401 *et seq.*  
24

25 1.1.4 Basin States' Proposal. The proposal of the  
26 representatives of the governors of the Colorado  
27 River basin states published in the Federal  
28 Register on August 8, 2000, Volume 65, number 153,  
29 pages 48531-48538, attached hereto as Exhibit 1,  
30 and including the technical corrections published  
31 in the Federal Register on September 22, 2000 at  
32 Volume 65, Number 185, page 57371, attached hereto  
33 as exhibit 2.  
34

35 1.1.5 Benchmark Date. The Year in which California  
36 Agricultural Water Usage must be at or below a  
37 specified Benchmark Quantity in order to maintain  
38 the operation of the Interim Surplus Guidelines  
39 under sections 2(B)(1) and 2(B)(2). The specific  
40 Years are listed in the table in section 3.2 of  
41 this agreement.  
42

43 1.1.6 Benchmark Quantity. A limitation on the total  
44 quantity of California Agricultural Water Usage in  
45 a Benchmark Year necessary to maintain the

operation of the Interim Surplus Guidelines under sections 2(B)(1) and 2(B)(2). The specific quantities are listed in the table in section 3.2 of this agreement.

1.1.7 Bureau of Reclamation. The United States Bureau of Reclamation, acting through the Lower Colorado River Regional Office, Boulder City, Nevada.

1.1.8 California Agricultural Agencies. Palo Verde Irrigation District (PVID), Yuma Project (Reservation Division) (YPRD), Imperial Irrigation District (IID) and Coachella Valley Water District (CVWD).

1.1.9 California Agricultural Usage. The cumulative total consumptive usage of Colorado River water by the California Agricultural Agencies, plus 14,500 af of present perfected right use reserved for certain Indian communities, cities and individuals within California.

1.1.10 Colorado River Aqueduct. The existing aqueduct system owned and operated by MWD to transport water from Lake Havasu on the Colorado River to Lake Mathews in Riverside County, California.

1.1.11 Direct Delivery Domestic Use. The direct delivery of water to domestic end users or other municipal and industrial water providers within the contractor's area of normal service, including incidental regulation of Colorado River supplies within the year of operation but not including Off-Stream Banking. "Direct Delivery Domestic Use" for MWD shall include delivery of water to end users within MWD's normal area of service, incidental regulation of Colorado River water supplies within the year of operation, and Off Stream Banking only with water delivered through the Colorado River Aqueduct.

1.1.12 Decree in Arizona v. California. The Decree entered by the United States Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964) and supplements thereto.

1.1.13 Domestic Use. As defined in the Colorado River Compact of 1922.

1.1.14 Flood Control Release. The release of water from Lake Mead and the operation of Hoover Dam for flood control purposes pursuant to the reservoir operating criteria specified in the February 8, 1984 Field Working agreement between the U. S. Army Corps of Engineers and the Bureau of Reclamation, and the U. S. Army Corps of Engineers regulations contained in 33 C.F.R. Part 208.11, as in effect on the date that this agreement is executed.

1.1.15 Flood Control Surplus Year. A Year in which the Secretary makes a Flood Control Release.

1.1.16 Full Domestic Surplus Year. A Year in which the Secretary has determined a full domestic surplus, as defined in the Interim Surplus Guidelines.

1.1.17 Interim Period. A fifteen-year period of time, commencing on January 1, 2002 and ending December 31, 2016 during which the Interim Surplus Guidelines are intended to operate.

1.1.18 Interim Surplus Guidelines. The federal guidelines described in the Record of Decision dated January 16, 2001, published in Fed. Reg. Vol. 66, No. 17, page 7772-7782 (January 25, 2001) and attached hereto as Exhibit 3.

1.1.19 maf. Million acre-feet, an expression of volume.

1.1.20 Normal Year. A year when the Secretary determines, under applicable authority including but not limited to Article II(B)(1) of the Decree in *Arizona v. California*, and the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968, that no more than 7.5 million acre-feet of Colorado River water shall be delivered for consumptive use in Arizona, California and Nevada collectively. During the Interim Period, the Secretary is expected to

determine a Normal Year or Shortage Year when Lake Mead storage is projected to be at or below elevation 1125 ft. on January 1, pursuant to section 2(A)(1) of the Interim Surplus Guidelines.

1.1.21 Off Stream Banking. The diversion of Colorado River water to underground storage facilities for use in subsequent years from the facility in which the water was stored by a contractor diverting such water.

1.1.22 Partial Domestic Surplus Year. A Year in which the Secretary has determined a partial domestic surplus as defined in the Interim Surplus Guidelines.

1.1.23 Quantified Surplus Year. A Year in which the Secretary has determined a quantified surplus as defined in the Interim Surplus Guidelines.

1.1.24 Secretary. The Secretary of the United States Department of the Interior, and duly appointed successors, representatives and others with properly delegated authority, including the Regional Director of the Lower Colorado Region of the Bureau of Reclamation.

1.1.25 Shortage Year. Any year when the Secretary determines, under Article II(B)(3) of the Decree in *Arizona v. California*, and the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968, that insufficient water is available for release to satisfy annual consumptive use of 7,500,000 af in the states of California, Nevada and Arizona collectively.

1.1.26 Year. A calendar year beginning January 1 and ending December 31. When preceded by another defined term, such as "Quantified Surplus Year," Year shall mean the Year in which the quantified surplus is being released by the Secretary under the Annual Operating Plan.

1.1.27 70R Strategy. OS 0.70 alternative strategy as described in the Bureau of Reclamation's CRSSez Annual Colorado River System Simulation Model Overview and Users Manual, revised May, 1998.

ARTICLE 2  
BASIC PROVISIONS

2.1 Subject in all events to the specific terms and conditions of this agreement:

2.1.1 The purpose of this agreement is to create the specific contractual responsibilities between MWD and State of Arizona regarding the implementation of the Interim Surplus Guidelines as such guidelines exist on the date of this agreement, and notwithstanding any change in the Interim Surplus Guidelines. These contractual responsibilities include the intentional forbearance from the use of Colorado River water that the parties might otherwise be entitled to divert under existing law and contracts. To the extent that the use of Colorado River water is intentionally forborne by one of the parties to this agreement for the exclusive use of the other, the Secretary shall, under authority of Article II(B)(6) of the Decree in *Arizona v. California*, make that water available to the intended recipient.

2.1.2 MWD agrees that it shall: (1) implement or facilitate the implementation of conservation measures and water transfers within the State of California to gradually reduce diversions of Colorado River water for consumptive use within the State of California; (2) place its orders for delivery of Colorado River water with the Secretary in a manner that upholds the commitments of this agreement and reduces total consumptive use of Colorado River water within the State of California; and (3) further reduce its consumptive use when there is a shortage of Colorado River water to diminish the impact of such shortage on the State of Arizona if the Secretary has released surplus water to MWD in a Full or Partial Domestic Surplus Year. Each of the foregoing shall be

performed in accordance with the provisions of this agreement.

2.1.3 The State of Arizona agrees that it shall: (1) through Joint Resolution of the Arizona Legislature waive a portion of its rights to surplus Colorado River water and cause contractors within Arizona to refrain from ordering surplus Colorado River water from the Secretary in certain quantities in certain years, in accordance with the terms of this agreement; and (2) waive any claim against MWD for shortages of Colorado River water arising from the release of surplus water to MWD in a Full or Partial Domestic Surplus Year during the Interim Period. Each of the foregoing shall be performed in accordance with the provisions of this agreement.

2.1.4 Nothing in this agreement shall preclude the consumptive use of Colorado River water in California in excess of the quantities specified in this agreement if such Colorado River water is apportioned to but unused by other states of the Lower Division and such water is released for use within California by the Secretary under Article II (B)(6) of the Decree in *Arizona v. California*.

2.1.5 Nothing in this agreement shall preclude the operation of accounting policies validly adopted by the Bureau of Reclamation that allow California to overrun consumptive use limits in some Year(s) provided that such water is repaid to the system in subsequent Year(s). The State of Arizona does not, by this agreement, waive any claim that such policies have not been validly adopted, are a violation of the Decree in *Arizona v. California*, or are otherwise not in accordance with law.

### ARTICLE 3

#### MWD'S OBLIGATION TO CAUSE OR FACILITATE CONSERVATION MEASURES AND WATER TRANSFERS WITHIN THE STATE OF CALIFORNIA DURING THE INTERIM PERIOD

3.1 To insure that California can limit its consumptive use of Colorado River water to no more than 4.4 maf after the 15

year Interim Period, unless a surplus is thereafter determined under the 70R Strategy, MWD shall implement or facilitate the implementation of conservation measures and water transfers within the State of California to gradually reduce California Agricultural Usage.

- 3.2 California Agricultural Usage must be at or below the following listed amounts by the end of the calendar year indicated, absent consideration of any surplus water use under a Flood Control Release or a Quantified Surplus Year, and absent any consideration of sub-article 2.1.5:

---

Benchmark Date	Benchmark Quantity*
<u>By end of Year</u>	<u>California Agricultural Usage</u>
2003.....	3.74 maf
2006.....	3.64 maf
2009.....	3.53 maf
2012.....	3.47 maf

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\* For Decree accounting purposes all reductions must be within 25,000 acre-feet of the amounts stated.

- 3.3 If California Agricultural Usage has not reduced to the above Benchmark Quantities by the Benchmark Date, the interim surplus determinations under sections 2(B)(1) and 2(B)(2) of the Interim Surplus Guidelines are expected to be suspended by the Secretary and surplus quantities, if any, are expected to be determined by the Secretary under the 70R Strategy during the suspension. Independent of any such action by the Secretary to suspend the Interim Surplus Guidelines, MWD shall make its order for Colorado River water to the Secretary in any Year following a missed Benchmark Date in an amount necessary to insure that consumptive use of Colorado River water within the State of California does not exceed 4.4 maf plus any surplus determined by the Secretary to be available to the State of California under the 70R Strategy.

- 3.4 If California Agricultural Usage meets the missed Benchmark Quantity before the next Benchmark Date, the interim surplus determinations under sections 2(B)(1) and 2(B)(2) of the Interim Surplus Guidelines are expected to be reinstated as the basis for the surplus determinations under the AOP for the next following year(s). Upon such

1 reinstatement, MWD's orders for Colorado River water to  
2 the Secretary shall be as stated in Article 4 below.

3  
4 3.5 For Year 2017, MWD shall make its order for Colorado River  
5 water to the Secretary in an amount necessary to insure  
6 that consumptive use of Colorado River water within the  
7 State of California does not exceed 4.4 maf plus any  
8 surplus determined by the Secretary to be available to the  
9 state of California under the 70R Strategy.

10  
11 3.6 MWD shall not cause the diversion of Colorado River water  
12 for Off Stream Banking in years of interim surplus  
13 determinations under sections 2(B)(1) and 2(B)(2) of the  
14 Interim Surplus Guidelines unless the water is delivered  
15 through the Colorado River Aqueduct.

16  
17 3.7 Nothing in this article shall be construed to allow the  
18 State of California to receive more Colorado River water  
19 in any Shortage Year or Normal Year than would otherwise  
20 be allowed under existing law.

21  
22 ARTICLE 4

23 MWD's OBLIGATIONS FOR ORDERING COLORADO RIVER  
24 WATER IN NORMAL AND SURPLUS YEARS  
25 DURING THE INTERIM PERIOD  
26

27 4.1 This article sets forth the limitations on MWD's orders of  
28 Colorado River water under Normal Year, Partial Domestic  
29 Surplus Year, Full Domestic Surplus Year, Quantified  
30 Surplus Year and Flood Control Release Year conditions  
31 during the Interim Period.

32  
33 4.2 Normal Year. In years when available Lake Mead storage is  
34 projected to be at or below elevation 1,125 feet but the  
35 Secretary has not declared a Shortage Year, MWD shall make  
36 its order for Colorado River water to the Secretary in  
37 such year in an amount necessary to insure that  
38 consumptive use of Colorado River water within the State  
39 of California does not exceed 4.4 maf, subject to  
40 consideration for subarticles 2.1.4 and 2.1.5.

41  
42 4.3 Partial Domestic Surplus Year. In years when Lake Mead  
43 storage is projected to be between elevation 1125 feet and  
44 elevation 1145 feet on January 1, a Partial Domestic  
45 Surplus is expected to exist under the Interim Surplus

Guidelines. For such Year, MWD shall make its order for surplus Colorado River water to the Secretary as follows:

4.3.1 For Direct Delivery Domestic Use by MWD, 1.212 maf reduced by: (1) the amount of basic apportionment available to MWD and (2) the amount of its domestic demand which MWD offsets in such year by offstream groundwater withdrawals or other options. The amount offset under (2) shall not be less than 380,000 af in 2002 and will be reduced by 20,000 af/year over the Interim Period so as to equal 100,000 af in 2016.

4.4 Full Domestic Surplus Year. In years when Lake Mead content is projected to be above elevation 1145 feet, but less than the amount which would initiate a surplus determination under a Quantified Surplus Year or Flood Control Surplus Year on January 1, a Full Domestic Surplus is expected to exist under the Interim Surplus Guidelines. For such Year, MWD shall make its order for surplus Colorado River water to the Secretary as follows:

4.4.1 For Direct Delivery Domestic Use by MWD, 1.250 maf reduced by the amount of basic apportionment available to MWD.

4.5 Quantified Surplus Year. In years when the Secretary determines that water should be released for beneficial consumptive use to reduce the risk of potential reservoir spills based on the 70R Strategy, a Quantified Surplus Year shall exist under the Interim Surplus Guidelines. MWD and the State of Arizona agree that the Secretary is expected to determine and allocate the Quantified Surplus sequentially as follows, and MWD shall make its order for surplus Colorado River water to the Secretary for such year based on the following determination and allocation:

4.5.1 The Secretary establishes the volume of the Quantified Surplus;

4.5.2 The Secretary is expected to allocate and distribute the Quantified Surplus 50% to California; 46 % to Arizona and 4% to Nevada subject to the following:

1 4.5.3 California's share is expected to be allocated  
2 first to meet basic apportionment demands and  
3 MWD's Direct Delivery Domestic Use and Off-Stream  
4 Banking demands, and then to California Priorities  
5 6 and 7 and other surplus contracts. Nevada's  
6 share is expected to be allocated first to meet  
7 basic apportionment demands and then to the  
8 remaining Direct Delivery Domestic Use and  
9 Off-stream Banking demands. Arizona's share is  
10 expected to be allocated to surplus demands in  
11 Arizona including Off-stream Banking and  
12 interstate banking demands.

13  
14 4.5.4 The Secretary is expected to distribute any unused  
15 share of the Quantified Surplus in accordance with  
16 section 1(B) of the Interim Surplus Guidelines.  
17

18 4.5.5 The Secretary is expected to determine whether MWD,  
19 SNWA and Arizona have received the amount of water  
20 they would have received under a Full Domestic  
21 Surplus if a Quantified Surplus had not been  
22 declared. If they have not, then MWD, SNWA and  
23 Arizona contractors may place their orders for  
24 Colorado River water as if the Secretary had  
25 determined a Full Domestic Surplus.  
26

27 4.5.6 MWD and the State of Arizona agree that any  
28 remaining water shall remain in storage in Lake  
29 Mead.  
30

31 4.6 Flood Control Surplus Year. In years when the Secretary  
32 makes a Flood Control Release, or in the AOP determines a  
33 Flood Control Surplus Year, MWD and the State of Arizona  
34 agree that releases may be made to satisfy all beneficial  
35 uses within California and Arizona, including unlimited  
36 Off Stream Banking and section 215 deliveries under the  
37 Reclamation Reform Act of 1982 (95 Stat. 1263). MWD and  
38 Arizona contractors may make their orders for Colorado  
39 River water to the Secretary without any limitation under  
40 this agreement. Thereafter, the Secretary may notify the  
41 United States Section of the International Boundary  
42 and Water Commission that there may be a surplus  
43 of water as provided in Article 10 of the *Utilization of*  
44 *Waters of the Colorado and Tijuana Rivers and of the Rio*  
45 *Grande, Treaty Between the United States of America and*

1 Mexico, signed February 3, 1944 ("Mexican Water Treaty of  
2 1944").

3  
4 ARTICLE 5

5 MWD'S OBLIGATIONS IN SHORTAGE YEARS DURING AND  
6 AFTER THE INTERIM PERIOD, OR IN THE EVENT OF A  
7 SUSPENSION OF THE INTERIM SURPLUS GUIDELINES  
8

9 5.1 This article sets forth the limitations on MWD's orders of  
10 Colorado River water under Shortage Year conditions both  
11 during and after the Interim Period.  
12

13 5.2 MWD's Obligations During the Interim Period. If the  
14 Secretary determines a Shortage Year during the Interim  
15 Period, MWD shall make its order for Colorado River water  
16 to the Secretary for that Shortage Year in an amount  
17 necessary to insure that total consumptive use of Colorado  
18 River water within the State of California does not exceed  
19 4.4 maf for that Shortage Year. In addition, if the  
20 Secretary has released water to MWD under either a Partial  
21 Domestic Surplus or a Full Domestic Surplus during the  
22 Interim Period, and if the Secretary declares a later year  
23 in the Interim Period to be a Shortage Year in which  
24 deliveries to Arizona will be reduced, MWD agrees to  
25 compensate for the impact of such shortage upon the State  
26 of Arizona as follows:  
27

28 5.2.1 MWD shall make or reduce its order for Colorado  
29 River water to the Secretary for that Shortage  
30 Year in an amount necessary to insure that the  
31 total consumptive use of Colorado River water in  
32 the State of California shall be less than 4.4  
33 maf. The amount by which MWD shall be required to  
34 reduce consumptive use of Colorado River water in  
35 the State of California below 4.4 maf shall be the  
36 same amount by which the Secretary limits  
37 consumptive use of Colorado River water in the  
38 State of Arizona below 2.8 maf for that Shortage  
39 Year. During the Interim Period, MWD's obligation  
40 to reduce consumptive use of Colorado River water  
41 within the State of California shall be subject to  
42 a 500,000 af yearly maximum. The water  
43 intentionally forborne by MWD pursuant to this  
44 paragraph shall be available exclusively for  
45 consumptive use in the State of Arizona under

Article II(B)(6) of the Decree in *Arizona v. California*.

5.2.2 MWD and Arizona DWR may agree upon a program to share the impact of shortages in any Shortage Year. Upon learning of the potential for shortage in the AOP promulgation process, MWD and Arizona DWR shall meet and confer regarding the relative impact of shortage on the respective states. If it appears that the shortage may last more than one year, Arizona DWR may, after consultation with affected Colorado River contractors in Arizona, consent to allow MWD to spread the shortage compensation over more than one year. In the event such an agreement is made, MWD shall reduce its order for Colorado River water to the Secretary for the next two or more years to implement the terms of such an agreement and to insure that total consumptive use of Colorado River water in the State of California shall be reduced below 4.4 maf to meet the agreed upon amount of compensation for each year.

5.2.2.1 In the event that such an agreement is made, but the year(s) following the first Shortage Year are not declared to be Shortage Years, MWD shall nevertheless retain the obligation to intentionally forbear use of Colorado River water and return the water owing to the State of Arizona in subsequent years. In such event, MWD acknowledges that the water might not be needed for direct use in Arizona and, if not so needed, shall pay the actual cost to store the forborne water in Arizona through the Arizona Water Banking Authority, such costs to be agreed upon by the parties to such agreement.

5.2.3 MWD may enter into an interstate banking arrangement with the Arizona Water Banking Authority at some future time. If such an agreement is made, it may include the opportunity for MWD to call upon credits held by the Arizona Water Banking Authority for the benefit of MWD to replace water that otherwise would be required to

1 be forborne by MWD under the terms of this  
2 agreement. In the event that such an agreement is  
3 made, the terms thereof shall modify the terms of  
4 this agreement only as expressly provided in such  
5 future agreement, and only as agreed to by the  
6 parties to this agreement.  
7

8 5.3 MWD's Obligations after the Interim Period arising from a  
9 Partial Domestic Surplus or a Full Domestic Surplus. If  
10 the Secretary has released water to MWD under either a  
11 Partial Domestic Surplus or a Full Domestic Surplus during  
12 the Interim Period, and if the Secretary declares a year  
13 after the Interim Period to be a Shortage Year, MWD agrees  
14 to compensate for the impact of such shortage upon the  
15 State of Arizona as follows:  
16

17 5.3.1 MWD shall make or reduce its order for Colorado  
18 River water to the Secretary for that Shortage  
19 Year in an amount necessary to insure that the  
20 total consumptive use of Colorado River water in  
21 the State of California shall be less than 4.4  
22 maf. The amount by which MWD shall be required to  
23 reduce consumptive use of Colorado River water in  
24 the State of California below 4.4 maf shall be the  
25 same amount by which the Secretary limits  
26 consumptive use of Colorado River water in the  
27 State of Arizona below 2.8 maf for that Shortage  
28 Year. Notwithstanding the agreement reached in  
29 the Basin States' Proposal, MWD's obligation to  
30 reduce consumptive use of Colorado River water  
31 within the State of California after the Interim  
32 Period shall also be subject to a 500,000 af  
33 yearly maximum. The water intentionally forborne  
34 by MWD pursuant to this paragraph shall be  
35 available exclusively for consumptive use in the  
36 State of Arizona under Article II(B)(6) of the  
37 Decree in *Arizona v. California*.  
38

39 5.3.2 Arizona DWR may, after consultation with affected  
40 Colorado River contractors in Arizona, agree to a  
41 program to share the impact of shortages with MWD  
42 after the Interim Period in the same manner as  
43 provided in paragraph 5.2.2 or 5.2.3 above.

1           5.4   Termination of MWD's Shortage Year Obligations. MWD's  
2           obligation to compensate for the impact of shortages to  
3           the State of Arizona under the terms of this agreement  
4           shall terminate at the earliest of any of the following  
5           events:  
6

7           5.4.1   If the QSA has been executed, MWD has, by  
8           performance of the obligations of this agreement,  
9           intentionally forborne a cumulative total of one  
10          million acre feet of water for the benefit of the  
11          State of Arizona by causing the reduction in  
12          consumptive use of Colorado River water in the  
13          State of California below 4.4 maf per year; or  
14

15          5.4.2   If the QSA has not been executed, MWD has, by  
16          performance of the obligations of this agreement,  
17          intentionally forborne a cumulative total of two  
18          hundred fifty thousand acre-feet of water for the  
19          benefit of the State of Arizona by causing the  
20          reduction in consumptive use of Colorado River  
21          water in the State of California below 4.4 maf per  
22          year; or  
23

24          5.4.3   In any year after the Interim Period, the Secretary  
25          makes a Flood Control Release; or  
26

27          5.4.4   MWD and Arizona DWR have agreed upon an alternative  
28          shortage compensation that expressly terminates  
29          the obligations of this agreement.  
30

31          5.5   Notice of Compliance. If the Annual Operating Plan  
32          promulgation process indicates that a shortage will be  
33          determined for the upcoming year, then within 30 days of  
34          MWD's receipt of such notice, but in no event later than  
35          November 15 of the current year, MWD shall send notice to  
36          Arizona DWR indicating the manner in which MWD will  
37          fulfill its obligations set forth in sections 5.2 or 5.3  
38          above.  
39

40          5.5.1   If subsequent to the transmittal of the final  
41          Annual Operating Plan, the Secretary determines  
42          that the current year is a Shortage Year, MWD  
43          shall within 60 days of receipt of notice by the  
44          Secretary of such shortage, send notice to Arizona  
45          DWR indicating the manner in which MWD will

fulfill its obligations set forth in sections 5.2 or 5.3 above.

5.5.2 Arizona DWR shall have 15 days from receipt of MWD's Notice of Compliance in which to object to the manner of MWD's intended compliance by providing a Notice of Objection to MWD. The Notice of Objection shall specify the basis for the objection and shall set forth the method(s) of compliance by which Arizona DWR would be satisfied. Failure to send MWD Notice of Objection within the 15 day period shall be a conclusive acceptance by Arizona DWR of MWD's Notice of Compliance.

5.5.3 If Arizona DWR sends a Notice of Objection, MWD shall have 15 days from receipt of such notice to either accept and comply with the notice, or send Arizona DWR a Notice of Dispute. In the event that a Notice of Dispute is sent, it shall be resolved pursuant to Article 9 below. Failure by MWD to send a Notice of Acceptance or Dispute within 15 days of receipt of the Notice of Objection shall be a conclusive acceptance by MWD of the Notice of Objection, and MWD shall adopt the method(s) of compliance stated in the Notice of Objection.

5.6 MWD's Obligations in the Event of Suspension of the Interim Surplus Guidelines. In the event that the Interim Surplus Guidelines are suspended prior to the end of the Interim Period under section 5.C of the Interim Surplus Guidelines, MWD shall have the following obligations:

5.6.1 MWD shall forbear from diverting water in an amount equal to the volume of Colorado River water diverted during the Interim Period for Off Stream Banking from the Colorado River Aqueduct by and for the benefit of MWD under any Full Domestic Surplus determination.

5.6.2 MWD's obligation to forbear as set forth in section 5.6.1 shall be fulfilled beginning in the next Normal or Shortage Year determined by the Secretary. The water forborne shall accrue to the

benefit of the Colorado River reservoir system and shall become water controlled by the United States for future release under the terms of the Decree in *Arizona v. California*.

5.6.3 MWD's obligation to forbear in this section 5.6 shall be limited to no more than 200,000 af annually, until completed.

5.6.4 MWD's obligations incurred under this section 5.6 shall terminate on the earlier of the date on which MWD's obligation has been satisfied or the first day of the first year after the suspension of the Interim Surplus Criteria in which the Secretary determines a surplus under the 70R Strategy or makes a Flood Control Release.

5.6.5 MWD shall follow the same procedure for notice of compliance of its obligations under this paragraph 5.6 as set forth in paragraph 5.5 above.

## ARTICLE 6 OBLIGATIONS OF THE STATE OF ARIZONA

6.1 This article sets forth the limitations on use of surplus water by Arizona contractors during the Interim Period in Partial Domestic Surplus Year, Full Domestic Surplus Year, Quantified Surplus Year and Flood Control Surplus Year conditions.

6.2 In Partial Domestic Surplus Year and Full Domestic Surplus Year conditions, the State of Arizona shall partially waive its contractual rights to surplus Colorado River water and insure that Arizona contractors for Colorado River water shall intentionally forbear use of a portion of Arizona's 46% share of surplus as follows:

6.2.1 Partial Domestic Surplus Year. The State of Arizona shall insure that consumptive use of Colorado River water in the State of Arizona for any Partial Domestic Surplus Year does not exceed 2.8 maf plus one half of the Direct Delivery Domestic Use in Arizona in excess of the State of Arizona's basic apportionment of 2.8 maf.

1           6.2.2 Full Domestic Surplus Year. The State of Arizona  
2           shall insure that consumptive use of Colorado  
3           River water in the State of Arizona for any Full  
4           Domestic Surplus Year does not exceed 2.8 maf plus  
5           the Direct Delivery Domestic Use in Arizona in  
6           excess of Arizona's basic apportionment of 2.8  
7           maf.

8  
9           6.3 Quantified Surplus Year. In years when the Secretary  
10          determines that water should be released for beneficial  
11          consumptive use to reduce the risk of potential reservoir  
12          spills based on the 70R Strategy, MWD and the State of  
13          Arizona agree that the Secretary is expected to determine  
14          and allocate a Quantified Surplus sequentially as follows.  
15          The State of Arizona shall insure that Arizona's orders  
16          for Colorado River water to the Secretary for such  
17          year are based on the following determination and  
18          allocation:

19  
20          6.3.1 The Secretary is expected to establish the volume  
21          of the Quantified Surplus;

22  
23               6.3.1.1 The Secretary is expected to allocate and  
24               distribute the Quantified Surplus 50% to  
25               California; 46 % to Arizona and 4% to Nevada  
26               subject to the following:

27  
28               6.3.1.2 California's share shall be allocated first  
29               to meet basic apportionment demands and  
30               MWD's Direct Delivery Domestic Use and  
31               Off-Stream Banking demands, and then to  
32               California Priorities 6 and 7 and other  
33               surplus contracts. Nevada's share is  
34               expected to be allocated first to meet basic  
35               apportionment demands and then to the  
36               remaining Direct Delivery Domestic Use and  
37               Off Stream Banking demands. Arizona's share  
38               shall be allocated to surplus demands in  
39               Arizona including Off Stream Banking and  
40               interstate banking demands.

41  
42               6.3.1.3 The Secretary is expected to distribute any  
43               unused share of the Quantified Surplus in  
44               accordance with section 1(B) of the Interim  
45               Surplus Guidelines.

1                   6.3.1.4 The Secretary is expected to determine  
2                   whether MWD, SNWA and Arizona have received  
3                   the amount of water they would have received  
4                   under a Full Domestic Surplus if a  
5                   Quantified Surplus had not been  
6                   declared. If they have not, then MWD, SNWA  
7                   and Arizona contractors may place orders for  
8                   surplus water as if the Secretary had  
9                   determined a Full Domestic Surplus.

10  
11                   6.3.1.5 The State of Arizona and MWD agree that any  
12                   remaining water shall remain in storage in  
13                   Lake Mead.

14  
15           6.4   MWD's Use of Surplus Water. The State of Arizona will not  
16           object to the Secretary making Colorado River water  
17           available to MWD in accordance with the Interim Surplus  
18           Guidelines so long as such release and use are consistent  
19           with the terms of this agreement.

20  
21                   ARTICLE 7  
22                   EFFECTIVENESS AND TERMINATION

23  
24           7.1   This agreement shall become effective immediately upon  
25           execution by the parties and ratification by Joint  
26           Resolution of the Arizona Legislature.

27  
28           7.2   Except as provided in subarticle 7.3, this agreement shall  
29           terminate on March 1, 2004, if the QSA is not in full  
30           force and effect by that date.

31  
32           7.3   Notwithstanding subarticle 7.2, subarticles 5.2, 5.3,  
33           5.4 and 5.5 shall survive termination of this  
34           agreement and shall continue in full force and  
35           effect until the obligations thereunder are fully  
36           discharged.

37  
38                   ARTICLE 8  
39                   NOTICE AND ACCOUNTING PROVISIONS

40  
41           8.1   Decree Accounting. Arizona DWR and MWD will work  
42           cooperatively with the Bureau of Reclamation and other  
43           interested persons to develop a decree accounting format  
44           that will clearly and accurately reflect the amount of

1 Colorado River water MWD has diverted under the Full  
2 Domestic Surplus or Partial Domestic Surplus Years.

3  
4 8.2 MWD's Groundwater Storage Records. Within 60 days of  
5 receipt by MWD of the final Decree Accounting Record for  
6 a Year, MWD will provide to Arizona DWR notice of the  
7 amount of Full Domestic Surplus Colorado River water which  
8 MWD has diverted through the Colorado River Aqueduct for  
9 Off Stream Banking.

10  
11 8.3 Notice. Any notice under this agreement shall be in  
12 writing and delivered by personal service, or by express  
13 delivery or courier service that guaranties delivery  
14 overnight and provides written confirmation of such  
15 delivery, to the following addresses:

16  
17 8.3.1 MWD:

18  
19 Metropolitan Water District of Southern California  
20 Attention: Chief Executive Officer  
21 P.O. Box 54153  
22 Los Angeles, California 90054-0153  
23 For personal or overnight delivery:

24  
25 Metropolitan Water District of Southern California  
26 Attention: Chief Executive Officer  
27 700 North Alameda Street  
28 Los Angeles, California 90012

29  
30 Telephone: 213-217-6211  
31 Facsimile: 213-217-6655

32  
33 Copy to: Attention: General Counsel

34  
35 8.3.2 State of Arizona:

36  
37 Arizona Department of Water Resources  
38 Attention: Director  
39 500 North Third Street  
40 Phoenix, Arizona 85007

41  
42 Telephone: 602-417-2410  
43 Facsimile: 602-417-2415

44  
45 Copy to: Attention: Chief Counsel

ARTICLE 9  
DISPUTE RESOLUTION

9.1 In the event that a dispute arises over any action to be undertaken pursuant to the terms of this agreement, all parties recognize that time is of the essence in the conduct of the parties under the terms of this agreement. Nothing herein shall limit any party's right to seek or oppose provisional relief in any dispute.

9.2 The parties agree that the Colorado River water resources being forborne, allocated and made available for use in other States of the Lower Division under the terms of this agreement are unique and very likely cannot be replaced in timely fashion by other resources. Accordingly, the parties agree that in any dispute, one party will likely be requesting an injunction ordering specific performance of the terms of this agreement. The parties agree that a party opposing the specific enforcement of this agreement shall have the burden to show by clear and convincing evidence that alternative resources are in fact available and a remedy at law is otherwise adequate.

ARTICLE 10  
GENERAL PROVISIONS

10.1 Force Majeure. If the performance, in whole or in part, of the obligations of the respective parties under this agreement is hindered, interrupted or prevented by wars, strikes, lockouts, fire, acts of God or by other acts of military authority, or by any other cause beyond the control of the respective parties hereto, such obligations of the respective parties under this agreement shall be suspended to the extent and for the time the performance thereof is affected by any such act. Upon the cessation of any such hindrance, interruption or prevention, all parties shall become obligated to resume and continue performance of their respective obligations under this agreement. Notwithstanding any act described in this Section, the Parties shall diligently undertake all reasonable effort to perform their duties in accordance with this agreement.

1       10.2 Records. Each of the parties shall maintain and make  
2       available for inspection by the other party, during  
3       regular office hours, accurate records pertaining to the  
4       times and amounts of deliveries of all Colorado River  
5       water released, diverted, consumptively used or stored by  
6       that party.

7  
8       10.3 No Conveyance. This agreement shall not be construed as  
9       a conveyance, abandonment or waiver of any water right, or  
10      right to the use of water, nor shall it be construed as  
11      conferring any right whatsoever upon any person, firm,  
12      corporation or other public or private entity not a party  
13      to this agreement.

14  
15      10.4 Governing Law. Federal law shall be applied as  
16      appropriate to the extent that it bears on the resolution  
17      of any claim or issue relating to the permissibility of a  
18      use of water under this agreement.

19  
20      10.5 Binding Effect. This agreement is binding upon and will  
21      inure to the benefit of the parties and, upon dissolution,  
22      the legal successors and assigns of their assets and  
23      liabilities. No party may assign any of its rights or  
24      delegate any of its duties under this agreement, except  
25      that any state agency duly authorized to assume the rights  
26      and liabilities of this contract under state law may be  
27      substituted for its predecessor state agency. Any  
28      assignment or delegation made in violation of this  
29      agreement is void.

30  
31      10.6 Due Authority. Any person signing this agreement  
32      represents that he/she has full power and authority to do  
33      so, and, that his/her signature is legally sufficient to  
34      bind the party on whose behalf he/she is signing.

35  
36      10.7 Entire Agreement. This agreement constitutes the final,  
37      complete, and exclusive statement of the terms of the  
38      agreement between the parties.

39  
40      10.8 Modification. This agreement may be supplemented,  
41      amended, or modified only by the written agreement of the  
42      parties. Except as expressly provided in this subarticle,  
43      no supplement, amendment or modification shall be  
44      effective unless ratified and approved by the Arizona  
45      Legislature.

10.8.1 If the Arizona Legislature is not in session, interim supplements, amendments and modification to this agreement may be made and shall be effective for no more than eight months. If the supplement, amendment or modification is to be effective for a period longer than eight months, it shall be subject to ratification and approval by the Arizona Legislature.

10.8.2 Ratification and approval by the Arizona Legislature shall not be required for any supplement, amendment or modification of this agreement made pursuant to subarticles 5.2.2, 5.2.2.1, 5.2.3, 5.3.2 and 8.3 of this agreement.

10.9 Joint Defense. The parties agree to proceed with reasonable diligence and use reasonable best efforts to jointly defend any lawsuit or administrative proceeding challenging the legality, validity, or enforceability of any term of this agreement, or any party's right to act in accordance with any of the terms of this agreement.

10.10 Recitals. The Recitals to this agreement are a part of this agreement to the same extent as the articles.

10.11 A.R.S. § 38-511. The parties are hereby notified of Arizona Revised Statutes section 38-511.

In Witness Whereof, the United States of America, The State of Arizona and the Metropolitan Water District of Southern California Enter into this Agreement by Signing Below:

METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Ronald R. Gastelum  
Chief Executive Officer

Date: \_\_\_\_\_

1 Approved as to form:

2  
3  
4 By: \_\_\_\_\_  
5 Jeffrey Kightlinger  
6 General Counsel  
7  
8

Date: \_\_\_\_\_

9 STATE OF ARIZONA  
10 Arizona Department of Water Resources  
11  
12

13  
14 By: \_\_\_\_\_  
15 Herb Guenther  
16 Director of Water Resources  
17  
18

Date: \_\_\_\_\_

19  
20 Legal Certification: The foregoing agreement is in proper form and within  
21 the powers and authorities granted to the Arizona Department of Water  
22 Resources under Arizona Law, as supplemented by Senate Joint Resolution 1002,  
23 46<sup>th</sup> Legislature, First Regular Session.  
24  
25

26  
27 By: \_\_\_\_\_  
28 W. Patrick Schiffer  
29 Chief Counsel

Date: \_\_\_\_\_

PASSED BY THE HOUSE MAY 13, 2003.

PASSED BY THE SENATE MAY 12, 2003.

APPROVED BY THE GOVERNOR MAY 19, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2003.

HOUSE FINAL PASSAGE  
as per Joint Conference

Passed the House May 13, 2003,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Jake Flake  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

SENATE FINAL PASSAGE  
as per Joint Conference

Passed the Senate May 13, 2003,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Bennett  
President of the Senate

Charmine Bellino  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 13 day of May, 2003

at 3:26 o'clock P M.

Sandra Ramirez  
Secretary to the Governor

Approved this 19 day of

May, 2003,

at 4:30 o'clock P. M.

J. N. ...  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2003,

at 10:53 o'clock A M.

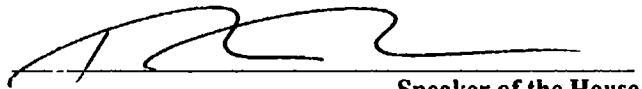

Janice L. Brewer  
Secretary of State

S.J.R. 1002

Passed the House April 14, 20 03,

by the following vote: 60 Ayes,



0 Nays, 0 Not Voting

  
Speaker of the House  
*Pro Tempore*  
  
Chief Clerk of the House

Passed the Senate March 4, 20 03,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

  
President of the Senate  
  
Ass. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

S.J.R. 1002

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~